

REMARKS/ARGUMENTS

I. Status of the Claims

Claims 1 through 10 are pending

All 10 claims in the application have been rejected.

II. Amendments

Claims 1 through 5 and 7 through 10 have been amended. These amendments have been made solely to comply with rejections as to form under 35 U.S.C. §§ 101 and 112. No amendment has been entered to avoid prior art of record.

Support for these amendments are found throughout the application with particular reference to the claims as filed.

While the application is under final rejection, Applicant respectfully requests that the amendment be entered. The amendments are offered to comply with utility and definiteness requirements and are not necessitated by art cited, and no further search is believed required by reason of these amendments.

III. Claim rejection under 35 U.S.C. § 101

The Office Action rejects claims 1-4 and 8-10 under 35 U.S.C. 101. As to Claims 1 through 4, the Examiner cites the term “means” as not limited to hardware. As to Claims 8 through 10, the Examiner has required “computer-readable medium” to be stated as “computer-readable *storage* medium.” As amended, this rejection is met.

Claims 1-4 have been amended to delete the term “means.” Claims 8-10 have been amended to claim a computer-readable storage medium.

IV. Claim rejection under 35 U.S.C. § 112, second paragraph

Claims 1-8 stand rejected under U.S.C. § 112, second paragraph, in respect of the use of the terms “sufficiently high” and “sufficiently low.” As amended, this rejection is met.

As amended, all claims differentiate between a determined probability exceeding or being less than a predetermined probability *mutatis mutandis*.

The Examiner has further cited as contradictory, the limitation of Claims 1 and 8 that a message has a low probability [less than the predetermined probability] of being unsolicited as contrasted with limitations of claims 4 and 10 that a message has a high probability [higher than the a second predetermined probability] of being unsolicited. These represent the same predetermined probability. In claims 1, 5 and 8 the message is passed to the proposed recipient on establishing that the probability that the message is an unsolicited is less than a predetermined probability threshold. In Claims 4 and 10, deletion is based on establishing that the probability that a message is unsolicited is higher than the predetermined probability threshold. This is supported throughout the specification with particular reference to page 4, lines 19 through 21.

V. Claim rejection 35 U.S.C. 102(e)

All Claims stand rejected under 35 U.S.C. 102(e) as anticipated by US 2005/0172213 (USSN 11/019,839, and U.S. Pat. 7,359,948) to Ralston (“Ralston ‘948”). This rejection is respectfully traversed.

Ralston ‘948 discloses a method for detecting incoming unsolicited bulk emails and storing the emails in a bulk mail folder [0044]. A white list is maintained of approved bulk mailers [0052]. Mailers may be added to the white list when a threshold number of users complain that their emails are being sent to the bulk mail folder as unsolicited [0052].

A black list is maintained of mailers known to send unsolicited mail [0053].

Section 8 of the Office Action rejects claim 1 under 35 U.S.C. 102(e) on the basis that Ralston '948 discloses, *inter alia*, on page 2 means to capture an outgoing email message and outgoing electronic mail analyzing means to determine an electronic mail address of at least one intended recipient of the outgoing electronic message and list updating means to update a pass list of electronic mail message addresses with the at least one intended recipient. Ralston '948, does not teach (on page 2 or anywhere else) capturing outgoing email messages and adding addresses of intended recipients of the outgoing message to a pass list for subsequent incoming email messages. We therefore submit that claim 1 is novel and inventive with respect to Ralston '948.

Section 9 of the Office Action rejects claim 2 on the basis that page 4 of Ralston '948 teaches dating means to date members of the pass list claimed in claim 1. Since we submit that there is no disclosure in Ralston '948 of a pass list created as claimed in claim 1, there can be no disclosure in Ralston '948 of means for dating members of such a pass list. However, in addition, we submit that there is no teaching in Ralston '948 at page 4 or elsewhere of dating members of any pass list. In fact the only lists disclosed in Ralston '948 appear to be a white list of approved bulk mailers [0052] and a black list of mailers known to send unsolicited mail [0053]. Neither of these lists is created from email addresses of intended recipients of outgoing mail and in neither of these lists is it disclosed that members of the list are dated with a date an email was last sent to the email list member as claimed in claim 2. We therefore submit that claim 2 is novel and inventive with respect to the cited art and request that the rejection be withdrawn.

Section 10 of the Office Action rejects claim 3 on the basis that page 5 of Ralston '948 teaches purging means for purging the pass list of claim 1 based on the age of members in the list. Since we submit that Ralston '948 does not disclose the pass list of claim 1 nor the dating means of claim 2, there can be no disclosure in Ralston '948 of purging means for purging members from such a list using dates added by such a dating means. There is no teaching in Ralston '948 on page 5 or elsewhere of any purging means for purging

members of a pass list based on a time since an email message was last sent to the member as claimed in claim 3. We therefore submit that claim 3 is novel and inventive with respect to the cited art, and request that the rejection be withdrawn.

Section 12 rejects independent method claim 5 for the same reasons as the Office Action rejects independent apparatus claim 1. Independent claim 5 is novel and inventive for corresponding reasons to those submitted in respect of claim 1. Applicant again notes that amendment is only as to formal matters and not to avoid Ralston '948. We respectfully request that this rejection be withdrawn.

Section 13 rejects claims 6 and 9 for corresponding reason to those for rejecting claims 2 and 3 and we submit that claims 6 and 9 are novel and inventive for corresponding reason to those presented for the novelty and inventive step of claims 2 and 3. We respectfully request that this rejection be withdrawn.

Sections 11, 14 and 15 raise objections which are moot if, as we submit, the independent claims are novel and inventive. We respectfully request that this rejection be withdrawn.

CONCLUSION

For at least the reasons set forth above, reconsideration and allowance of this application are believed to be in order, and such action is hereby solicited. If any points remain an issue which the Examiner feels may be best resolved through a telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below. The Examiner is invited and encouraged to telephone the undersigned with any concerns in furtherance of the prosecution of the present application.


Please charge any deficiency as well as any other fee(s) which may become due at any time during the pendency of this application, or credit any overpayment of such fee(s) to Deposit Account No. 50-2896.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

August 6, 2008

Dated:



BY: Thomas M. Saunders (Reg. No. 29,585)
Customer No. 71130
Attorney for Applicant(s)
SEYFARTH SHAW LLP
World Trade Center East
Two Seaport Lane, Suite 300
Boston, MA 02210
Tel: 617-946-4832
Fax: 617 946-4801
E-mail: bosipto@seyfarth.com